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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,492	09/15/2000	J. Keith Kelly	6945.002.00	3670
30827	7590	05/27/2004	EXAMINER	
MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	
DATE MAILED: 05/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/662,492	Applicant(s) KELLY ET AL.	
	Examiner Matthew s Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) 21-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 and 13 were amended via the Attorney's reply under 37 CFR 1.111 filed April 6, 2004. Claims 1-20 are pending in the instant application and claims 21-33 were withdrawn from further examination via Paper No. 4.

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Figures 3-5 contain rough text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect. Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

Claim Rejections - 35 USC §101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 and 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. "A method of providing agricultural pesticides, etc." mere nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not affect or affect the underlying process.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-20 are rejected under 35 U.S.C. 102(a) as being anticipated by

Cppress.com (PTO-892, Ref U).

Referring to claim 1. Cppress discloses a method of providing information on pesticides, comprising inputting into a computer:

- The identity of a pest existing on a property (Page 2, Search by all the above plus: Crop / Plant / Site use" and Page 6);
- The identity of a plant or crop existing on the property, wherein said plant or crop is adversely affected by said pest (Page 2, "Search by all the above plus: Pest Use and Page 6);
- The location of the property (Page 8, "Select products to use by crop/site, disease, insect, weed, common name, product category, and mode of action."); and
- Executing an algorithm for generating therefrom instructions for choosing a pesticide registered in said location to protect said plant or crop from said pest (Page 1, "View all of the above plus: Product Summaries" and Page 3).

The Examiner notes, that in the instant application, the information inputted (identity of a pest and identity of a crop) is not linked to the information generated via the algorithm. The algorithm could be based and generated from a plurality of inputted information and not necessarily limited to the information inputted in steps 1, 2, and 3 of claim 1.

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Referring to claim 2. Cppress further discloses a method wherein said instructions allow for a comparison of different products (page 1).

Referring to claim 3. Cppress further discloses a method wherein the instructions provide access to a material safety data sheet (Page 3, "Agricultural Services").

Referring to claim 4. Cppress further discloses a method comprising obtaining the product by sale on-line (Page 2, "Greenbook Website").

Referring to claim 5. Cppress further discloses a method wherein the algorithm initiates an analysis of restrictions on the sale of the pesticide (Page 1, "Indexes flag products that are Restricted Use").

Referring to claim 6. Cppress further discloses a method wherein analysis includes validating information regarding a pesticide applicator (Page 8 and Page 9).

Referring to claim 7. Cppress further discloses a method wherein the analysis includes validating information regarding a pesticides dealer (Page 5).

Referring to claim 8. Cppress further discloses a method wherein information regarding an on-line sale of the product is entered into a central database (Page 2, "Greenbook Website").

Referring to claims 9-12. Cppress further discloses a method comprising accessing a farm-planning guide to assist a user in optimizing crop yield, providing information regarding seeds, and providing information regarding fertilizers (Page 3, "Agricultural Services").

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Referring to claim 13. Claim 13 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 14. Claim 14 is rejected under the same rationale as set forth above in claim 5.

Referring to claim 15. Claim 15 is rejected under the same rationale as set forth above in claim 6.

Referring to claim 16. Claim 16 is rejected under the same rationale as set forth above in claim 7.

Referring to claim 17. Cppress further discloses a method wherein the memory further stores a central database of pesticides according to geographical areas (Page 6, "Indexes flag Restricted Use Products, and those not registered in California").

Referring to claims 18-20. Claims 18-20 are rejected under the same rationale as set forth above in claims 9-12.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are not persuasive.

The Attorney remarks, "Claim 1 is allowable over Cppress.com in that claim 1 recites a combination of elements including, for example, 'inputting into a computer. . . the identity of a pest existing on a property. . . (inputting into the computer) the identity of a plant or crop existing on the property. . . (inputting into the computer) the location of the property; and executing an algorithm for generating therefrom instructions for

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choosing a pesticide registered in said location to protect said plant or crop from said pest.' Cppress.com fails to teach, either expressly or inherently, at least these features of the claimed invention. Thus, Applicants respectfully submit that claims 2-12, which depend from claim 1, are also allowable over Cppress.com."

The Attorney further remarks, "Claim 13 is allowable over Cppress.com in that claim 13 recites a combination of element including, for example, 'a memory for storing. . . a plant database[,]. . . a pest database[,]. . . a pesticide database; and location database; and... a processor connected to the memory and being configured to generate instructions regarding which pesticides in the pesticide database are registered for use in a location within the location database and can be used to protect a plant in the plant database from a pest in the pest database.' Cppress.com fails to teach, either expressly or inherently, at least these features. Applicants respectfully submit that claims 14-20, which depend from claim 13, are also allowable over Cppress.com."

The Examiner notes, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

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Conclusion

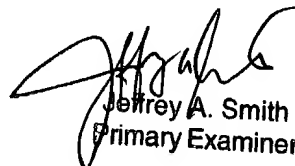
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

May 17, 2004


Jeffrey A. Smith
Primary Examiner